

Appl. No. 10/505,287; Docket No. FR02 0010US
Amdt. dated November 17, 2006
Response to Final Office Action dated October 25, 2006

REMARKS/ARGUMENTS

Claims 1-9 remain pending in this application.

Claim 1 has been amended to more clearly present the feature of "depositing a single intermediate layer" of Applicant's invention.

Claims 1-3 and 7-9 still stand rejected under 35 U.S.C. §102(b) as being anticipated by *Hause et al.* (U.S. Patent 5,834,625, hereinafter *Hause*).

Claims 4-6 still stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Hause* in view of *Wolf*, Silicon Processing for the VLSI Era, Vol 4, Lattice Press (2002) hereinafter *Wolf*.

The §102 Rejection

Applicant respectfully reiterates his traversal of the rejection, in that claim 1, as amended, is not anticipated by *Hause*. Upon another review of the Office Action, Applicant notes "etching mask (108) on the intermediate layer (104/106)" has "a border layer 106 . . . formed on the upper surface of interlevel dielectric layer 104 (col. 6, lines 29-30 and FIG. 2)." There are two layers, the border layer 106 and the interlevel dielectric layer 104.

In contrast, Applicant's claimed features, as amended, only include "depositing a single intermediate layer of material (14) on a substrate (Claim 1)." There is only a single layer.

Consequently, *Hause* does not anticipate Applicants' invention.

In view of the foregoing, Applicants respectfully assert that the rejections under 35 USC 102(b) be withdrawn for Claims 1-3 and 7-9.

The §103 Rejection

Applicant respectfully reiterates his traversal of the rejection in that a *prima facie* case for obviousness has not been made.

With respect to claim 4, the Office Action concedes that *Hause* does not expressly disclose that the side-walls of the aperture are coated by means of a dielectric material having a low dielectric constant. However, the citation of *Wolf* does not make up for this

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deficiency, in that *Hause* neither suggests nor teaches low dielectric constant material coatings as used *in the context* of Applicant's invention.

Furthermore, the wafer fabrication arts involve the use of manufacturing processes that are often specific to a family of product. One skilled in the art would not take the suggestion to willy-nilly combine two disparate semiconductor processes to come up with a third process, as in the case of the present rejection. In these processes, a number of recipes are combined to build layers of an integrated circuit device resulting in, ultimately, a complete functioning device. *Hause*, in not making a mention of the use of low-k dielectric, would not lead the artisan to modify his process to use a low-k dielectrics. Applicant contends that to modify *Hause* in this manner (according to *Wolf*) would destroy the intent of *Hause*.

References are not properly combinable or modifiable if their intended function is destroyed. The CCPA and the Federal Circuit have held that when a 103 rejection is based upon a modification of a reference that destroys the intent, purpose or function of the invention disclosed in the reference, such a proposed modification is not proper and the *prima facie* case of obviousness can not be properly made. See *in re Gordon*, 733 F. 2d 900, 221 USPQ 1125 (Fed. Cir 1984).

With respect to claim 5, the Office action concedes that *Hause* does not expressly disclose that "the dielectric material of the coating layer is chosen among fluoruous glass. . ." By the arguments present *supra*, in reference to claim 4 the Office Action does not make the case for obviousness under §103.

With respect to claim 6, again as in the discussion of claims 4 and 5, combining *Hause* with *Wolf* does not make up for the deficiencies of *Hause*. The structure proposed in the Office Action is neither taught nor suggested by either reference alone or in combination.

Consequently, a case for obviousness under §103 has not been made. Applicants request that the §103 rejections for claims 4-6 be withdrawn.

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Conclusion

Applicant believes he has addressed the Examiner's concerns. Applicant asserts that the claims, as presently amended, are allowable over the cited references. Applicant earnestly requests that a timely Notice of Allowance be forthcoming.

Please charge any fees other than the issue fee and credit any overpayments to Deposit Account 50-4019.

Respectfully submitted,

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